Public Act 490 Explained

REDUCED TAXES ON FARMLAND ARE GREAT … UNTIL YOU GO TO SELL IT!

In 1963, the Connecticut Legislature passed Public Act 490. This Act was passed in order to encourage the preservation of open space, forests and farm land that was beginning to be developed. In essence, if your land meets the requirements of Public Act 490 your land will be taxed at the "use value" as opposed to the fair market value of the land resulting in a significant tax savings. However, if your property is sold or taken out of the designation within 10 years you may be subject to a conveyance tax penalty.

DOES MY LAND QUALIFY?

The local assessor will make a determination as to whether or not your land qualifies under Public Act 490. You must apply for designation as open space, farm land or open space land between September 1st and October 31st to qualify for a reduction in the next year's tax cycle.

To qualify as farm land it must be part of a true farm. Farm is defined by the Connecticut General Statutes Section 1-1q. as "Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoophouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands."

In order to apply for forest land, you must have a minimum of 25 contiguous acres and you must have your forest land designated as such by the Connecticut Department of Environmental Protection. Typically a certified forester will review your forested tract and prepare a management plan as well.

In order to classify land as open space land it must be part of the land designated by the local municipalities Plan of Conservation Development as that to be protected, remain as open

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space/undeveloped, etc. If this is not included in the plan then your property cannot be classified as open space land.

Once qualified you do not need to reapply. However, the assessor does have the right to request an update on the property and you may be required to update your original application. If it is determined that you do not qualify, you have the right to appeal to the local municipalities Tax Appeal Board. It is recommended that you consult with the Farm Bureau and/or Department of Agriculture to assist you.

Is there a penalty if I sell my land or want to take it out of Public Act 490?

If you decide to sell your property within 10 years of the date you **protected** your property as **open space** through Public Act 490 you will be subject to an additional conveyance tax. Per Section 12-504a. of the Connecticut General Statutes the additional conveyance tax, "shall be at the following rate: (1) Ten per cent of said total sales price if sold within the first year following the date of such classification; (2) nine per cent if sold within the second year following the date of such classification; (3) eight per cent if sold within the third year following the date of such classification; (4) seven per cent if sold within the fourth year following the date of such classification; (5) six per cent if sold within the fifth year following the date of such classification; (6) five per cent if sold within the sixth year following the date of such classification; (7) four per cent if sold within the seventh year following the date of such classification; (8) three per cent if sold within the eighth year following the date of such classification; (9) two per cent if sold within the ninth year following the date of such classification; and (10) one per cent if sold within the tenth year following the date of such classification." Many times the seller will agree to pay this additional conveyance tax as no buyer will want to pay this additional tax.

If you decide to sell your property within 10 years of the date you **acquired** your property as **farm land or forest land** through Public Act 490 you will be subject to an additional conveyance tax. Per Section 12-504a. of the Connecticut General Statutes the additional conveyance tax, "shall be at the following rate: (1) Ten per cent of said total sales price if sold within the first year of ownership by such record owner; (2) nine per cent if sold within the second year of ownership by such record owner; (3) eight per cent if sold within the third year of ownership by such record owner; (4) seven per cent if sold within the fourth year of ownership by such record owner; (5) six per cent if sold within the fifth year of ownership by such record owner; (6) five per cent if sold within the sixth year of ownership by such record owner; (7) four per cent if sold within the seventh year of ownership by such record owner; (8) three per cent if sold within the eighth year of ownership by such record owner; (9) two per cent if sold within the ninth year of ownership by such record owner; and (10) one per cent if sold within the tenth year of ownership by such record owner. No conveyance tax shall be imposed by the provisions of sections 12-504a to 12-504f, inclusive, following the end of the tenth year of ownership by the record owner or person acquiring title to such land or causing such land to be so classified."

If the use of your protected land has changed (i.e. – you stop farming or subdivide your property into residential lots) you will be subject to an immediate tax calculated in the same way as noted above. The fair market value will be calculated (as there is no sale) by the assessor in conjunction with the most recent revaluation.

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WHAT ARE THE ACTUAL USE VALUES SO I CAN CALCULATE MY POTENTIAL TAX SAVINGS?

These are the values at which you will be assessed instead of the typical "fair market" values:
Land Type: Tillable A - State Wide $1,200 per acre; River Valley $1,665 per acre

Land Type: Tillable B - State Wide $720 per acre; River Valley $1,110 per acre

Land Type: Tillable C - State Wide $445 per acre; River Valley $665 per acre

Land Type: Tillable D - State Wide $335 per acre; River Valley $445 per acre

Orchard - State Wide $1,100 per acre; River Valley $1,300 per acre

Permanent Pasture - State Wide $165 per acre; River Valley $220 per acre

Swamp/Ledge/Scrub - State Wide $40 per acre; River Valley $40 per acre

Forest/Woodland - State Wide $190 per acre; River Valley $190 per acre

The following towns are considered River Valley municipalities:
Bloomfield, Cromwell, East Granby, East Hartford, East Windsor, Ellington, Enfield, Glastonbury, Granby, Manchester, Portland, Rocky Hill, Simsbury, Somers, South Windsor, Suffield, Vernon, West Hartford, Wethersfield, Windsor, and Windsor Locks.

Land Classifications:
Tillable A - Excellent (shade tobacco and ball & burlap nursery, some crop land)
Tillable B - Very Good (binder tobacco, vegetable, potatoes, some crop land)
Tillable C - Very Good, Quite Level (corn silage, hay, vegetables, potatoes, crop land)
Tillable D - Good to Fair, Moderate to Considerable Slopes (hay, corn silage, rotation pasture, crop land)
Orchard - Well maintained trees for the purposes of bearing fruit. Land often situated on hillsides nd considerable slopes.
Unmanaged Pasture - Grazing for Livestock, Not Tilled Land, usually not maintained.
Forest/Woodland - Forest Land in a Farm Unit, or Forestry, as Defined in the Forestry Certificate
NOTE: State law requires revaluation of farm, forest and open space land be conducted every five years. Also, the local assessor may modify these values but the modification must be justified.

If you have any questions related to Public Act 490,
please contact Arthur H. Howland & Associates, P.C. at (860) 354-9346
and ask for Paul Szymanski. You can also visit us on the web at http://ahhowland.com.

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